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6 INTERNATIONAL, LLC, KB&M PROJECTS
INTERNATIONAL, LLC and CTL PROJECTS
INTERNATIONAL, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KEVIN SO.

Plaintiff,

V.

LAND BASE, LLC, et al.,

Defendants.

CASE NO. CV 08-3336 DDP (AGR_x)
DECLARATION OF TODD D.
THIBODO WITH EXHIBITS A TO Q
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT, OR IN
THE ALTERNATIVE, SUMMARY
ADJUDICATION BY DEFENDANTS
KEVIN KONDAS, MIRA MELTZER,
KM & ASSOCIATES
INTERNATIONAL, LLC, KB&M
PROJECTS INTERNATIONAL, LLC
AND CTL PROJECTS
INTERNATIONAL, LLC

Date: 06-07-10
Time: 10:00 a.m.
Room: 3
[Hon. Dean D. Pregerson]

Complaint filed: 05-20-08
Final Pretrial
Conference: 07-26-10
Trial: 08-03-10

[Filed and served concurrently with Notice of Motion and Motion for Summary Judgment, or in the Alternative Summary Adjudication; Memorandum of Points and Authorities; Separate Statement of Uncontroverted Facts and Conclusions of Law; [Proposed] Order]

DECLARATION OF TODD D. THIBODO

I, Todd D. Thibodo, declare:

3 1. I am an attorney at law licensed to practice before the courts of the
4 State of California and before this Court. I am the attorney of record for
5 Defendants KM & Associates International, LLC, KB&M Projects International,
6 LLC and CTL Projects International, LLC (“Defendants”) in United States District
7 Court Central District of California Case No. CV 08-3336 DDP (AGRx), *So v.*
8 *Land Base, LLC, et al.* I have personal knowledge of the facts stated below,
9 except those facts stated on information and belief and, if called as a witness, I
10 could and would testify competently thereto.

11 2. Attached hereto as Exhibit A is a true and correct copy of
12 Plaintiff's Rule 26 Initial Disclosure Statement served by Plaintiff on February 20,
13 2009 in this matter.

14 3. Attached hereto as Exhibit B are true and correct copies of pages
15 8, 9, 11, 17, 54, 55, 99, 100, 113, 114, and 115 of Volume 1 of the Deposition of
16 Plaintiff Kevin So (“So Depo., Vol. 1”), March 11, 2010. I attended both days of
17 Plaintiff’s deposition.

18 4. Attached hereto as Exhibit C are true and correct copies of pages
19 157, 176, 177, 178, 179, 248, 249, 250, 252, 253, 257, and 261 of Volume 2 of the
20 Deposition of Kevin So (“So Depo., Vol. 2”), March 12, 2010.

21 5. Attached hereto as Exhibit D is a true and correct copy of Exhibit
22 10 to the So Depo., Vol. 2. Plaintiff acknowledged that he signed the document
23 and otherwise authenticated this document at page 176, line 22 through page 177,
24 line 14.

25 6. Attached hereto as Exhibit E is a true and correct copy of the UK
26 Litigation "Witness Statement of Kevin So" dated August 11, 2006 ("So Witness
27 Statement"). The So Witness Statement was produced by Plaintiff during
28 discovery in this case and is Bates numbered "SO-0001279-1289." During the

1 first day of his trial testimony in the UK Litigation, So testified in response to
2 questions from his own attorney and the trial judge that he had reviewed and
3 signed the So Witness Statement. (See, paragraph 7, below, Exh. F, 10/15/07
4 Transcript of Trial Testimony of Kevin So, High Court of Justice, Queen's Bench
5 Division, Commercial Court, 2005 Folio No. 841 ("So Trial Tr., 10/15/07"),
6 17:16-25.) He also testified to and corrected a typographical error at paragraph 59
7 of the document. (Thibodo Decl., Exh. F, So Trial Tr., 10/15/07, 18:7-11.)
8 Finally, he adopted the So Witness Statement as his "evidence-in-chief" in the
9 trial. (Thibodo Decl., Exh. F, So Trial Tr., 10/15/07, 19:8-12.)

10 7. Attached hereto as Exhibit F are true and correct copies of pages
11 17-19 and 23 of the So Trial Tr., 10/15/07. The transcript of Plaintiff's October
12 15, 2007 testimony in the trial of the UK Litigation was among the 70,000 pages
13 of documents produced by Plaintiff during discovery in this case. The October 15,
14 2007 transcript is Bates numbered "SO-0027019-0027050." Because "SO-
15 0027019-0027050" is a condensed version of the transcript, my office contacted
16 the court reporter, Merrill Legal Solutions | WordWave International | Smith
17 Bernal ("Merrill Legal Solutions") to request a full-size transcript. On May 7,
18 2010, Merrill Legal Solutions e-mailed full-size copies of the transcripts for all
19 four days of the So trial testimony in the UK Litigation. Also attached hereto as
20 Exhibit F are true and correct full-size copies of pages 17-19 and 23 of the So
21 Trial Tr., 10/15/07, which were e-mailed to my office on May 7, 2010 by Merrill
22 Legal Solutions. A copy of the e-mail transmittal from Merrill Legal Solutions to
23 my assistant is attached as the last two pages of this exhibit.

24 8. Attached hereto as Exhibit G is a true and correct copy of page
25 54 of the October 16, 2007 transcript of the Trial Testimony of Kevin So, in the
26 High Court of Justice, Queen's Bench Division, Commercial Court, 2005 Folio
27 No. 841 ("So Trial Tr., 10/16/07"). A copy of So Trial Tr., 10/16/07 was
28 produced by Plaintiff during discovery in this case and is Bates numbered "SO-

1 0027051-0027078.” Also attached hereto as Exhibit G is a true and correct full-
2 size copy of page 54 of the So Trial Tr., 10/16/07, which was e-mailed to my
3 office on May 7, 2010 by Merrill Legal Solutions.

4 9. Attached hereto as Exhibit H are true and correct copies of pages
5 10-11 and 66-68 of the October 17, 2007 transcript of the Trial Testimony of
6 Kevin So, in the High Court of Justice, Queen’s Bench Division, Commercial
7 Court, 2005 Folio No. 841 (“So Trial Tr., 10/17/07”). A copy of So Trial Tr.,
8 10/17/07 was produced by Plaintiff during discovery in this case and is Bates
9 numbered “SO-0027079-0027108.” Also attached hereto as Exhibit H are true
10 and correct full-size copies of pages 10-11 and 66-68 of the So Trial Tr., 10/17/07,
11 which were e-mailed to my office on May 7, 2010 by Merrill Legal Solutions.

12 10. Attached hereto as Exhibit I are true and correct copies of pages
13 14, 32, 34-35, 42, 44, 47-48, 62-63, 65-66 and 71 of the October 18, 2007
14 transcript of the Trial Testimony of Kevin So, in the High Court of Justice,
15 Queen’s Bench Division, Commercial Court, 2005 Folio No. 841 (“So Trial Tr.,
16 10/18/07”). A copy of So Trial Tr., 10/18/07 was produced by Plaintiff during
17 discovery in this case and is Bates numbered “SO-0027109-0027139.” Also
18 attached hereto as Exhibit I are true and correct full-size copies of pages 14, 32,
19 34-35, 42, 44, 47-48, 62-63, 65-66 and 71 of the So Trial Tr., 10/18/07, which
20 were e-mailed to my office on May 7, 2010 by Merrill Legal Solutions.

21 11. Attached hereto as Exhibit J is a true and correct copy of
22 the Judgment in *HSBC Bank PLC v. 5th Ave. Partners Ltd.*, Case No. 2005 Folio
23 841, [2007] EWHC 2819 (Comm) (“UK Judgment”). The UK Judgment was
24 authenticated by Plaintiff in discovery in this case, in response to Defendant’s
25 Request for Admissions. A true and correct copy of Plaintiff’s Amended
26 Responses to Defendant’s First Set of Requests for Admissions is attached hereto
27 as Exhibit K.

28

1 12. Attached hereto as Exhibit L is a true and correct copy of the UK
2 Litigation Second Witness Statement of Kevin So, dated October 31, 2006 (“So
3 Second Witness Statement”). A copy of the So Second Witness Statement was
4 produced by Plaintiff during discovery in this case and is Bates numbered “SO-
5 0025897-0025905.”

6 13. Attached hereto as Exhibit M is a true and correct copy Plaintiff's
7 May 20, 2008 Complaint, with Exhibits A to D (Docket No. 1).

8 14. Attached hereto as Exhibit N is a true and correct copy Plaintiff's
9 January 16, 2009 First Amended Complaint with Exhibits A to D (Docket No. 95).

10 15. Attached hereto as Exhibit O is a true and correct copy Plaintiff's
11 July 16, 2009 Second Amended Complaint, with Exhibits A to E (Docket No.
12 177).

13 16. Attached hereto as Exhibit P are true and correct copies of pages
14 52, 81, 82, 100, 101 and 102 of Volume 1 of the Deposition of Kevin Kondas,
15 March 18, 2010 (“Kondas Depo., Vol. 1”).

16 17. Attached hereto as Exhibit Q is a true and correct copy Exhibit 3
17 to Kondas Depo., Vol. 1. Pages 9-15 of the Exhibit is a copy of KMAI's
18 Operating Agreement for KM & Associates International, LLC.

18. Pursuant to Central District Local Rule 7-3, during the week of
April 26 through April 30, 2010, counsel for the parties met and conferred
regarding the substance of this motion.

22 I declare under penalty of perjury pursuant to the laws of the United
23 States and the State of California that the foregoing is true and correct. Executed
24 this 7th day of May, 2010, at Los Angeles, California.

By: /s/ Todd D. Thibodo
Todd D. Thibodo